

**BEFORE THE DIVISION OF INSURANCE**

**STATE OF COLORADO**

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**AMENDED FINAL AGENCY ORDER O-09-007**

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**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF ROCKY  
MOUNTAIN HOSPITAL AND MEDICAL SERVICE, INC.,**

**Respondent**

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**THIS MATTER** comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Rocky Mountain Hospital and Medical Service, Inc. (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated March 5, 2008 (the "Report"), relevant examiners work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

**FINDINGS OF FACT**

1. On or about July 2, 2008, the Commissioner entered Final Agency Order O-08-130 pursuant to the Report.
2. The Commissioner hereby rescinds the Final Agency Order O-08-130 and amends the Final Agency Order as set forth with this below.
3. At all relevant times, the Respondent was licensed by the Division as a Property and Casualty Insurance Company.
4. In accordance with §§ 10-1-201 to 207, C.R.S., on March 5, 2008, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2006 to December 31, 2006.
5. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.

6. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the Market Regulation Handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.
7. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
8. Respondent delivered to the Division written submissions and rebuttals to the Report.
9. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

#### **CONCLUSIONS OF LAW AND ORDER**

10. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
11. Issue A1 concerns the following violation: Failure, in some cases, to include all required contract provisions in provider contracts. The Respondent shall provide evidence that it has revised its provider contracts to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
12. Issue A2 concerns the following violation: Failure to maintain records required for market conduct purposes. The Respondent shall provide evidence that it has revised its record maintenance procedures to ensure that all records required for market conduct purposes are maintained and provided in the time periods required to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
13. Issue E1 concerns the following violation: Failure of the Company's forms, in some instances, to define and/or implement the correct definition of disabled dependent. The Respondent shall provide evidence that it has

revised its forms to properly define and apply the correct standards for a disabled dependent as mandated by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

14. Issue E2 concerns the following violation: Failure of the Company's forms, in some instances, to limit the timeframe of requested medical information to a maximum of five (5) years prior to application. The Respondent shall provide evidence that it has revised its forms to limit its request for personal medical information to a maximum of five (5) years in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue E3 concerns the following violation: Failure of Company to provide coverage to newborns without notification of birth when no further premium is required. The Respondent shall provide evidence that it has revised its forms to properly reflect coverage of newborns in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
16. Issue E4 concerns the following violation: Failure of Company's forms to properly reflect the eligibility to receive an offer of continuation of coverage. (*This was a prior issue E2 in the findings of the market conduct examination report dated June 28, 2001.*) The Respondent shall provide evidence that it has revised its forms to properly reflect eligibility for continuation of coverage in accordance with Colorado insurance law.  
In the market conduct examination for the period January 1, 2000 to December 31, 2000, the Company was cited for failure of the forms to provide for continuation of coverage according to the provisions of Colorado insurance law. The violation resulted in Recommendation #18 of Stipulated Final Agency Order O-02-120 that the Company "shall revise its forms to indicate that continuation of coverage rights will not be cancelled except as allowed under Colorado insurance law. Failure to comply with the previous order of the Commissioner may constitute a knowing violation of §10-1-205, C.R.S. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue E5 concerns the following violation: Failure to properly title its Basic and Standard health benefits plan certificates. The Respondent shall provide evidence that it has revised its Basic and Standard health benefit forms to reflect the proper titles in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
18. Issue E6 concerns the following violation: Failure of the Company's Basic and Standard health benefit plan certificates to correctly define all

mandated transplants. The Respondent shall provide evidence that it has revised its forms to properly reflect the mandated transplant coverage in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

19. Issue E7 concerns the following violation: Failure of the Company's Basic and Standard health benefit plan certificates to provide and/or correctly define the mandated children's preventive services. The Respondent shall provide evidence that it has revised its forms to properly define and provide the mandated children's preventive services in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
20. Issue E8 concerns the following violation: Failure of the Company's Basic and Standard health benefit plan certificates to provide the mandated adult preventive care services. The Respondent shall provide evidence that it has revised its forms to properly cover adult preventive services in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
21. Issue E9 concerns the following violation: Failure of the Company's Basic and Standard health benefit plan certificates to define and/or provide mandated emergency services. The Respondent shall provide evidence that it has revised its forms to properly reflect the mandated coverage for emergency treatment in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
22. Issue E10 concerns the following violation: Failure of the Company's forms to provide the required disclosure relating to reimbursement of non-participating providers. The Respondent shall provide evidence that it has revised its forms to contain the required disclosure relating to reimbursement of non-participating providers in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
23. Issue E11 concerns the following violation: Failure of the Company's forms, in some instances, to provide correct provisions relating to assignment of benefits. The Respondent shall provide evidence that it has revised its forms to properly reflect the assignment of benefits provisions in accordance with Colorado insurance law.
24. Issue E12 concerns the following violation: Failure of the Company's certificate of coverage for its HSA Qualified Plans for Individuals to include

all required provisions and/or wording mandated by Colorado insurance law. The Respondent shall provide evidence that it has revised its certificates of coverage for individual plans to comply with all requirements of Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

25. Issue G1 concerns the following violation: Failure to elicit information regarding existing policies and potential replacement of such policies from applicants for individual insurance. The Respondent shall provide evidence that it has revised its application forms and underwriting processes and procedures to properly elicit replacement information in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
26. Issue G2 concerns the following violation: Failure of the Company's individual policies to include the amount of premium. The Respondent shall provide evidence that it has revised its policy contract forms to properly reflect the amount of premium in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
27. Issue G3 concerns the following violation: Failure, in some instances, to charge filed premium rates. The Respondent shall provide evidence that it has revised its systems and rating procedures to ensure that rates are applied consistently among all individuals, and as outlined in the rate filings submitted to the Division in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
28. Issue G4 concerns the following violation: Failure, in some instances, to obtain and retain in the file a list of eligible employees and/or eligible dependents. The Respondent shall provide evidence that it has revised its procedures to ensure that it obtains a list of eligible employees and eligible dependents with each new group application, and retains these lists in the application files in order to comply with Colorado insurance law.
29. Issue H1 concerns the following violation: Failure of the Company's Certificates of Creditable Coverage to address and/or define "significant break in coverage" in accordance with Colorado insurance law. The Respondent shall provide evidence that it has revised its forms to properly reflect all required elements of the Certificates of Creditable Coverage in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.


30. Issue H2 concerns the following violation: Failure of the Company to correctly underwrite small employer group applications. The Respondent shall provide evidence that it has revised its underwriting policies and procedures regarding small group declinations to ensure compliance with Colorado insurance law.
31. Issue H3 concerns the following violation: Failure, in some instances, to provide written denial of coverage and/or provide reason(s) for denial of coverage on small employer group applications. The Respondent shall provide evidence that it has revised its procedures to ensure that written notification of denial that includes the specific denial reason is provided to all small group applicants who are denied coverage in accordance with Colorado insurance law.
- In the market conduct examination for the period January 1, 2000 to December 31, 2000, the Company was cited for failure of the forms to provide for failure to issue declination notices in writing, stating the reasons for the denial of coverage. The violation resulted in Recommendation #46 of the Stipulated Final Agency Order O-02-120 that the Company "shall revise its underwriting procedures to ensure that written declinations stating reasons for denial of coverage are provided to all applicants." Failure to comply with the previous order of the Commissioner may constitute a knowing violation of §10-1-205, C.R.S. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
32. Issue H4 concerns the following violation: Failure, in some instances, to provide price quotes upon request. The Respondent shall provide evidence that it has revised its policies and procedures to ensure that prospective small employer groups are provided with price quotes in accordance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
33. Issue H5 concerns the following violation: Failure, in some instances, to implement procedures for terminating policies, including coding and timing of cancellation processing, and providing offers of Basic and Standard coverage that are in compliance with Colorado insurance law. The Respondent shall provide evidence that it has revised its termination procedures to comply with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
34. Issue J1 concerns the following violation: Failure, in some instances, to pay, deny, or settle claims within the time frames required by Colorado insurance law. The Respondent shall provide evidence that it has revised its procedures to ensure that all claims are paid, denied, or settled within the time frames required by Colorado insurance law. The Division's records

indicate that Respondent has complied with the corrective actions ordered concerning this violation.

35. Issue K1 concerns the following violation: Failure, in some instances, to provide written notification of first level review adverse determinations within the time frame required by Colorado insurance law. The Respondent shall provide evidence that it has revised its procedures to ensure that it provides written notification letters regarding first level review adverse determinations within the time frames required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
36. Issue K2 concerns the following violation: Failure to provide the location of the review panel meeting and thereby discouraging the covered person from requesting a face-to-face meeting. The Respondent shall provide evidence that it has revised its policies and procedures to ensure that disclosure of the location of the review panel meeting is provided, and that it does not in any way discourage covered persons and/or their representatives from requesting face-to-face meetings as required by Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
37. Issue K3 concerns the following violation: Failure to include dental services in the Company's UR procedures. The Respondent shall provide evidence that it has revised its procedures to ensure that dental services are included in the utilization review process in the same manner as medical services, to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
38. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of two hundred ninety thousand and no/100 dollars (\$290,000.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division Bulletin No. B-1.3, originally issued on January 1, 1998, re-issued May 8, 2007.
39. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related Order.

40. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies', presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
41. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
42. Copies of the examination report, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

**WHEREFORE:** It is hereby ordered that the findings and conclusions contained in the Report dated March 5, 2008, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 18th day of July, 2008.

  
Marcy Morrison  
Commissioner of Insurance



**CERTIFICATE OF MAILING**

I hereby certify that on the 18th day of July, 2008, I caused to be deposited the **AMENDED FINAL AGENCY ORDER NO. O-09-007 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF ROCKY MOUNTAIN HOSPITAL AND MEDICAL SERVICES, INC.**, in the United States Mail via certified mailing with postage affixed and addressed to:

Mr. John Martie, President  
Rocky Mountain Hospital and Medical Services, Inc.  
700 Broadway  
Denver, CO 80273

Mr. Matt Morgan, Anthem Internal Audit  
Rocky Mountain Hospital and Medical Services, Inc.  
700 Broadway  
Denver, CO 80273

A handwritten signature in cursive script that reads "Eleanor Patterson". The signature is written in dark ink and is positioned above the printed name and title.

Eleanor Patterson  
Market Regulation Section  
Division of Insurance